



February 19, 1999

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## HOUSE BILL No. 1089

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DIGEST OF HB1089 (Updated February 17, 1999 11:35 am - DI 2)

**Citations Affected:** IC 20-6.1.

**Synopsis:** Binding arbitration for teachers. Permits a permanent teacher to elect either binding arbitration on the issue of cancellation of the teacher's indefinite teaching contract or to have the school board determine the issue. Provides a notice and hearing procedure for the nonrenewal of a nonpermanent teacher.

**Effective:** July 1, 1999.

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**Kuzman**

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January 6, 1999, read first time and referred to Committee on Education.  
February 18, 1999, reported — Do Pass.

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HB 1089—LS 6457/DI 71+



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February 19, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1089

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-6.1-4-11 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) An indefinite  
3       contract with a permanent or semi-permanent teacher may be canceled  
4       only in the following manner:

5           (1) the teacher shall be notified in writing of the date, time, and  
6           place for the consideration by the school corporation of the  
7           cancellation of the contract; this notification must occur not more  
8           than forty (40) days nor less than thirty (30) days before the  
9           consideration;

10          (2) the teacher shall be furnished, within five (5) days after a  
11          written request, a written statement of the reasons for the  
12          consideration;

13          (3) the teacher may file a written request for a hearing within  
14          fifteen (15) days after receipt of the notice of this consideration;

15          (4) when the request for a hearing is filed, the teacher shall be  
16          given a hearing before the governing body on a day no earlier  
17          than five (5) days after filing;

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(5) the teacher shall be given not less than five (5) days' notice of the time and place of the hearing;

(6) at the hearing, the teacher is entitled:

(A) to a full statement of the reasons for the proposed cancellation of the contract; and

(B) to be heard, to present the testimony of witnesses and other evidence bearing on the reasons for the proposed cancellation of the contract;

(7) a contract may not be canceled until:

(A) the date set for consideration of the cancellation of the contract;

(B) after a hearing is held, if a hearing is requested by the teacher; and

(C) the superintendent has given his recommendations on the contract; on five (5) days written notice to him by the school corporation, the superintendent shall present his recommendation on each contract, except on a superintendent's contract;

(8) pending a decision on the cancellation of a teacher's contract, the teacher may be suspended from duty; and

(9) after complying with section 10 of this chapter in the case of permanent teachers, or section 10.5 of this chapter in the case of semi-permanent teachers, and this section, the governing body of the school corporation may cancel an indefinite contract with a teacher by a majority vote evidenced by a signed statement in the minutes of the board; the decision of the governing board is final.

The vote to cancel a contract described in subdivision (9) must be taken by the governing body on the date and at the time and place specified in subdivision (1).

(b) If a permanent or semi-permanent teacher is suspended under subsection (a)(8) and except as provided in IC 20-6.1-5-11, the governing body may not (while the teacher is suspended) withhold from the teacher salary payments or other employment related benefits that before the suspension the teacher was entitled to receive.

(c) The governing body may appoint an agent (who is not an employee of the school corporation, but who may be a member of the governing body or an attorney retained to administer the hearing proceedings under this section) for the purpose of issuing subpoenas for the attendance of witnesses for either party at the hearing. A subpoena issued under this section shall be:

(1) served by the party who seeks to compel the attendance of a witness; and



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(2) upon application to the court by the party, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

**(d) Instead of the cancellation procedure provided in subsection (a), a permanent teacher's contract may be canceled as provided in section 11.1 of this chapter.**

SECTION 2. IC 20-6.1-4-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.1. (a) Instead of the cancellation procedure provided in section 11(a) of this chapter, a permanent teacher's contract may be canceled as provided in this section.**

**(b) The teacher shall be notified in writing of the date, time, and place for the consideration by the school corporation of the cancellation of the contract. This notification must occur not more than forty (40) days and not less than thirty (30) days before the consideration.**

**(c) The teacher shall be furnished, within five (5) days after a written request, a statement of the reasons for the consideration.**

**(d) The teacher may file a written request for binding arbitration on the matter of contract cancellation within fifteen (15) days after receipt of the notice of this consideration.**

**(e) If the teacher requests binding arbitration, the matter shall be submitted to the American Arbitration Association. The American Arbitration Association shall, not more than ten (10) days following the day of receipt of the request, furnish from a listing of the membership of the National Academy of Arbitrators the names of three (3) members of the National Academy. The teacher and the governing body shall each strike an arbitrator from the list. The remaining arbitrator shall conduct the arbitration.**

**(f) The arbitration shall be conducted in accordance with the rules and procedures of the American Arbitration Association.**

**(g) The decision of the arbitrator is final and binding upon the parties. The arbitrator may order reinstatement with or without back pay. The school corporation and the teacher shall each pay one-half (1/2) of the compensation and expenses of arbitration under this section. Pending a decision on the cancellation of a permanent teacher's contract, the teacher may be suspended from duty.**

SECTION 3. IC 20-6.1-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 14. (a) Each contract**



entered into by a nonpermanent teacher and a school corporation continues in force on the same terms and for the same wages, unless increased by IC 20-6.1-5-1, for the next school term following the date of termination set in the contract. However, the contract does not continue if any of the following occur:

(1) ~~On or before May 1, the school corporation notifies the teacher that the contract will not continue for the next school term. This notification must be:~~

~~(A) written; and~~

~~(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.~~

**The school corporation refuses continuation of the contract in accordance with subsections (b) through (h).**

(2) The teacher delivers or mails by registered or certified mail to the school corporation the teacher's written resignation.

(3) The contract is replaced by another contract agreed to by the parties.

(b) Before a teacher is refused continuation of the contract under subsection (a), the teacher has the following rights, which shall be strictly construed:

~~(1) Upon the request of the teacher, and within fifteen (15) days of the receipt of the notice of contract nonrenewal, the governing body or the superintendent of the school corporation shall provide the teacher with a written statement which may be developed in an executive session and which is not a public document, giving the reasons for the noncontinuation of the teacher's contract.~~

~~(2) (1) The principal of the school at which the teacher teaches shall provide the teacher with an annual written evaluation of the teacher's performance before January 1 of each year. Upon the request of a nonpermanent teacher, delivered in writing to the principal within thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.~~

**(2) On or before May 1, the school corporation shall notify the teacher that the governing body will consider noncontinuation of the teacher's contract for the next school term. The notification must be:**

**(A) written; and**

**(B) delivered:**

**(i) in person;**

**(ii) by registered mail; or**

**(iii) by certified mail;**



to the teacher at the teacher's last known address.

(3) Upon the request of the teacher, and within fifteen (15) days after the teacher's receipt of the notice of the school corporation's consideration of contract nonrenewal, the governing body or the superintendent of the school corporation shall provide the teacher with a written statement of the reasons for considering the proposed noncontinuation of the teacher's contract. The statement:

(A) may be developed in an executive session; and

(B) is not a public document.

(c) A conference shall be held with the governing body, or at the direction of the governing body, with the superintendent or the superintendent's designee, not more than ten (10) days following the day the governing body receives the request **under subsection (b)**. If the first conference is not with the governing body, **the teacher may request** a second conference ~~shall~~ **that must** be held with the governing body **at a time**:

(1) mutually agreeable to both parties; and

(2) not more than twenty (20) days following the day the governing body receives the request for a second conference, or before the end of the school year, whichever is earlier.

(d) The governing body may, in addition to a conference, require that the superintendent or the superintendent's designee and the teacher summarize in writing the position of each party with respect to the continuation of the contract.

(e) At any conference:

(1) the governing body, the superintendent, or the superintendent's designee shall provide full and complete information supporting the reasons given for noncontinuance; and

(2) the teacher shall provide any information demonstrating that noncontinuance of the contract is improper.

(f) The conference with the governing body shall be in executive session unless the teacher requests a public conference. The teacher may have a representative at any conference.

(g) The time periods set out in subsection (c) shall be extended for a reasonable period:

(1) when a teacher or school official is ill or absent from the school corporation;

(2) when the teacher requests a public conference, but a public conference held within the time periods of subsection (c) violates IC 5-14-1.5-5; or

(3) for other reasonable cause,



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1 (h) The governing body shall ~~affirm or reverse its position~~ **vote** on  
2 **the** continuation of the teacher's contract not more than ten (10) days  
3 after the conference.

4 (i) The governing body of a school corporation may decide not to  
5 continue a teacher's contract under this section:

6 (1) for any reason considered relevant to the school corporation's  
7 interest; or

8 (2) because of a teacher's inability to perform the teacher's  
9 teaching duties.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1089, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

PORTER, Chair

Committee Vote: yeas 8, nays 5.

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